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A STATEMENT OF A CLAIM
TO CERTAIN RIGHTS IN THE LAND AND SEA-ICE
IN NORTHERN LABRADOR

BY
THE INUIT AND NATIVE SETTLER PEOPLE
PRESENTED TO
THE GOVERNMENT OF CANADA
BY
THE LABRADOR INUIT ASSOCIATION

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STATEMENT OF OBJECTIVE

This submission is made to the Government of Canada with a view to asserting that the Inuit and native settler people of northern Labrador have aboriginal and customary legal rights in and to all that land and sea-ice which is more particularly described in the map annexed to this Statement of Claim (Appendix 1).

The Labrador Inuit Association, on behalf of the Inuit and settler people of northern Labrador, submits this Statement of Claim and calls on the Government of Canada to recognize and accept its responsibilities and obligations towards our people and to agree to enter into negotiations at the proper time for a settlement of their claims based on aboriginal and customary legal rights.

This statement sets out the claim of the native people of northern Labrador in general terms. All allegations of fact are able to be verified by reference to the several supporting studies commissioned by the Association as part of the Land Use and Occupancy Study conducted between September 1975 and December 1976.

Labrador Inuit Association announces its intention and willingness to enter into negotiations at the proper time with the appropriate authorities, including the Government of Canada, for a settlement of their claims to the territory based on clear cultural, historical, social and legal rights.

The Inuit people took care of the land because they always had it to hunt on anywhere and because they lived anywhere they wanted to live and looked after the land.

It would be better if this land could be for the younger Inuit. Our young people will live their life the way they see fit. That's why it would be better for them to have the land.

I care very much for it; I would hunt yet if I were still able. I lived off the land all the time. I belong to all the northern coast and it's all my land. I really care for the places where I have lived and hunted. I wouldn't want it to be taken away from the Inuit.

Joshua Obed,
Nain.

"If any hunter saw any kind of animal anywhere, they were to get them for food. There was no-one to stop any hunter from hunting any animals in those days. All animals that were seen by hunters had to be killed for food if the hunters wanted to.

"Nowadays people need licences to hunt animals otherwise they are restrained from hunting. What are those people thinking of?

"Animals were created to be hunted for food by us Inuit people. They were our only means of living, our only food in those days.

"We ate only a little Kablunak food. Our parents couldn't eat all day; the only time they had something to eat was in the evening. We children, if there was any Kablunak food available in the store, would have a little store-bought food. If there was no food given to us, we didn't eat, even if there were other kinds of food to be had. Only if store-bought food, anything like biscuits, were given to us did we eat."

Martin Martin
Okak (early 1900's)
Nain (c.1916-1976)

INTRODUCTION

This statement of claim is submitted to the Government of Canada by the Labrador Inuit Association.

The Constituency

L.I.A., an affiliate of Inuit Tapirisat of Canada, was incorporated in Newfoundland in March 1975.

Among the Association's objects are to promote and preserve Inuit culture and language and develop dignity and pride in Inuit heritage among Inuit people of Labrador; to promote and protect the traditional hunting, fishing and aboriginal rights of the Inuit people of Labrador; and to enter into any arrangements with any governmental or municipal authority that seem conducive to the Association's objects, and to obtain from such authority any rights, privileges or concessions which the Association may think desirable to obtain.

The Association speaks on behalf of approximately 2,500 Inuit and native settler people scattered throughout the communities of Nain (1,000), Hopedale (450), Makkovik (350), Rigolet (270), Postville (200), Happy Valley (250) and North West River in Northern Labrador.

Under the Articles of Association a person qualifies as a full member of the Association if he or she is the child of two Inuit parents; is over the age of 18 years, and a permanent resident of Labrador, having lived there for at least five years prior to applying for membership; or is a native settler¹ or a child

1. A "native settler" means a white man who settled in Labrador prior to 1940, and who has remained there since; and his children.

of a native settler married to a person of Inuit origin; is over the age of eighteen, and a permanent resident of Labrador, having lived there for at least five years prior to applying to become a member.

A Picture of Ourselves.

L.I.A. speaks on behalf of both the Inuit and native settlers of Northern Labrador. We would like to explain a bit about ourselves, about who we are and where we come from. Nor it can be said with truth that there are two distinctive groups of people and cultures on the Coast of Labrador.

Our knowledge of the early occupation of Labrador derives from archaeological and historical sources. Three Eskimo cultures, pre-Dorset, Dorset and Thule preceded the present Inuit population and occupied the north Labrador coast prior to contact with Europeans. These cultural traditions had their origins, for the most part, in the Western Arctic-Bering Straits region, and were widely distributed throughout the Canadian Arctic.

Archaeological evidence indicates that the north Labrador coast was first occupied by the pre-Dorset Eskimos in approximately 1900 B.C. All of the Eskimo cultures that have occupied Labrador depended on the hunting of sea and land mammals that were seasonally available in coastal and interior regions.

Early contact between the Inuit and Europeans dates to the sixteenth and seventeenth centuries, but it was not until the 1770-80's that the Moravian Mission established permanent stations at Nain (1771), Okak (1776),

and Hopedale (1782). Mission communities were later established at Hebron (1831) and Makkovik (1896), while the Hudson's Bay Company maintained a trading post at Postville and Rigolet in the mid-nineteenth century.

These communities gradually became the centres for religious, social and/or trade activities, but a sedentary resident population did not develop. There were no alternatives to a subsistence economy based on hunting, fishing and trapping. This meant that different sites, closer to seasonal hunting grounds, were occupied as they had been prior to European contact.

It was not until the mid-1950's when the prospect of employment, better health care, and education encouraged more permanent residence at several of the coastal communities. The residents of the two northern-most communities, Nutak and Hebron, were forced to relocate in 1956 and 1959 to Nain, Hopedale, Makkovik and North West River. The upheaval generated by this move is persistent to-day. The present communities have taken shape largely as a result of government-sponsored housing programs initiated in the 1960's.

The ancestors of the native settler people arrived on the coast in the early and mid-1800's. They came primarily from the British Isles, with a few from the island of Newfoundland and elsewhere.

They were drawn here for many reasons, and found jobs with the Hudson's Bay Company or other independent trading outfits, or set themselves^{up} as trappers. For the most part, these men and women settled in the wooded

bays found in the region between Makkovik and Hopedale, with several other families settling in the rather more isolated bays ranging north to the treeline at Napartok Bay (about 58°N.).

These people settled alongside the Inuit, marrying Inuit and adopting a subsistence economy; one which combined many Inuit techniques of harvesting the renewable resources but was also inspired by more European principles of restricting the use and access to the seasonal resources.

In so far as both groups are equally dependent for the livelihoods on the resources of the land and sea, it is quite difficult to distinguish sharply between Inuit and native settler. However, there are subtle -- and indeed at times quite obvious -- distinctions between the two groups (much like that between the Indian and Metis in other parts of Canada) and the people themselves are aware of their own respective identities. This issue is further discussed in the occupancy section of the Land Use and Occupancy Study.

The Background

On August 8, 1973, the Government of Canada announced that it was ready to negotiate with the authorized representatives of the native peoples on the basis that where their traditional interests in land, variously known as "aboriginal title", "original title" or "Inuit

"title" could be established, an agreed form of compensation or benefits would be provided to the native peoples in return for that interest.

The Labrador Inuit Association welcomes this policy initiative, subject to various reservations.

On the face of that statement it seemed restricted to claims located in British Columbia, Northern Quebec, the Yukon Territory and the Northwest Territories. By implication, Labrador was excluded from its reach.

Furthermore, it was also said that claims in the Atlantic provinces were of a different character from those contemplated by that statement.

This view is quite incorrect in so far as it purports to describe the position in northern Labrador. As will appear from the body of this document the claims of the native people are based on the same premises and flow from an identical situation as in, for example, the Northwest Territories.

Fortunately, however, this erroneous view of the character of the claims in northern Labrador did not take firm root, and L.I.A. has since been assured by the former Minister of Indian Affairs and Northern Development that it was not intended to prevent the submission of a claim based on aboriginal title by the native people of Labrador.

On September 15, 1975, L.I.A. entered into a contract with the Minister of Indian Affairs and Northern Development under which Canada funded research into the basis of a land claim, and the Association agreed to submit a statement of claim to DTAND and to provide sufficient documentation to

disclose the basis, nature and background of the claim.

This present document is submitted as the Labrador Inuit Association's statement of claim.

THE BASIS OF CLAIM

L.I.A. submits as the basis for its claim the appended reports which are the results of part of the research commissioned by the Association as part of its Land Claims Project.

The Association approached research into land claims from two different perspectives. Thus there are two basic components: data gathering and information; and a legal opinion interpreting that data in light of the current law.

The Land Use and Occupancy Study

The first and most important was the Land Use and Occupancy Study. This research was designed to document areas of land and sea used in the past and present by contemporary inhabitants of the northern coast of Labrador and to demonstrate the depth and richness of the way of life and world-view of the people.

The collection of the information was done primarily through house-to-house interviews between September 1975 and September 1976. Hunters were asked to outline on maps the areas in which they had hunted, trapped and fished within various given time periods selected for each community.

The methodology, assumptions and theoretical perspective applied to the interpretation of this information is explained fully in the accompanying reports.

The most striking feature of these maps is the extraordinarily wide-ranging territory covered; not to variation in species of animals found at different locations along the coast.

The maps show in a very visual way the huge areas of land and sea which the claimants have used and occupied within living memory.

These maps are discussed in detail and evaluated in the several land-use essays written for each of the communities. Also included are accounts of the ecology, habitat and movements of the various species of wildlife inhabiting the territory. These essays are designed to lift the lines off the maps into the reader's mind to give him an imaginative insight into the people's day-to-day lives.

The current situation on the coast was then cast in an historical, archaeological and anthropological context to give some sense of the continuity, diversity and maturity of the present.

Visitors to coastal communities often misunderstand what they see. Nain, the largest of the villages and furthest north, does not consist in the people's minds of a collection of buildings -- stores, houses, community hall, R.C.H.P. detachment and Moravian chapel. No. For the people Nain is simply the temporary stopping-off point in the yearly round of seasonal activities. One need only fly from Goose Bay to any of the coastal communities to

to be struck immediately by the incredible number of snowmobile tracks going and coming over the place. Not heading to the villages but from them.

"For it is out in the country and on the sea that people lead their lives."

A continuing use of land and sea resources is as important in the present as it was in the past, back into the pre-settlement period. There are no domesticated livestock that can be drawn on for food. There are no large markets supplied with fresh meat and vegetables. Employment opportunities are limited and seasonal, and do not afford many families with the ability to maintain an existence independent of some use of local resources. Their hunting grounds are the open spaces of land for the native people of Labrador.

All animals that are hunted, from the largest (caribou) to the smallest (birds, fish) are migratory and have cycles of abundance and scarcity. The areas where species are seasonally plentiful are known, as are the behaviour, habits and fluctuations in migration or population size over time. This knowledge of wildlife and habitat constitutes a coherent system of land use that has continued since the first people occupied Labrador, and will continue in the future as the present communities increase in size and develop economically.

At present there is a fair economic enterprise for all the coastal communities in the annual summer char and salmon fisheries. For many years, when cod fish were more plentiful, this resource was the focus of economic activity in the north.

Similarly, fur-bearing animals (fox, seals, mink, otter, etc.) have been important depending on their abundance and value.

The resources of the land, as the land use essays show, represent an economic alternative for the people of Labrador. Their dependence on those resources either for local consumption or economic exchange is a characteristic aspect of the life of the region.

What is abundantly clear, and must be stressed time and again, is that this land use system is still viable and as relevant today as in the past. True, it has undergone adjustment and modification (but no culture is a discrete entity). Some of these adaptations have been made through harnessing new technology, or unstable prices or supply of resources might have made the engaging in a particular economic activity not worth the risk; or in other cases through the outright destruction of the resource itself.

Our claim, therefore, is not based on some dead culture or way of life which we want restored. It is based in a living tradition of land use and occupancy patterns. And so in a very real sense our moral and political claim is to the right to continue to live lives which have sustained us in the past and which we believe will be meaningful and coherent for our children.

The resources of land and sea are presently under grave threat from government policies over which we have no control, and with the consequences of which we have to live. Many of these policies are designed to change us, and are

policies which do not take into account our own value preferences but instead, on the contrary, deny their validity and by implication deny our own moral worth as a people.

Finally there is the occupancy essay. This paper shows in a way which is rather different from the land use essays that we have a coherent, intelligent adaptation to the land and sea, outlook, and way of life. That our moral universe is a seamless web the rending of any part of which puts a severe strain on the other threads. That our human values are universal values, but at the same time help us understand and make sense of our own world and experience, and its daily demands on us. It reflects our attitudes to ourselves and to outsiders, to the land and its resources.

That our land use and occupancy forms an integrated system of beliefs, values, commitments, which touches upon and explains every aspect of our lives. This essay seeks to open the window on our lives and to give an insight into that moral universe. It is our own conceptual framework through which we view ourselves; have our children; live; die. Of our own sense of moral worth and how we have acquired it.

Our sense of ourselves, however, has undergone a systematic assault from forces over which we have no control and with which we do not know how to deal. We are losing our language - the key to our house, and the door is being closed on our children.

We are a community. But we demand that our way of life, our norm for people be validated and confirmed. When it will be done by land and water.

Our Legal Rights

The second part of our land claims research focussed on various legal questions. The information in the Land Use and Occupancy Study was tested against various legal criteria to see whether the facts measured up to the requirements for the proof of an aboriginal title or some other form of legal right in the territory claimed.

We are not obliged according to the terms of our agreement to disclose in any detailed way the legal basis or reasoning by which we arrive at our claim. However, we base our claim to the territory on aboriginal and customary legal rights, the broad nature of which we will explain in the next section.

THE CLAIM

We claim to have legal rights, based on the concepts of aboriginal and customary rights, to all of that land and sea-ice outlined on the attached map. These rights accrue to the Inuit and native settlers by operation of various legal doctrines, the operation of which deliver legal rights to the claimants on the basis of the supporting studies already mentioned.

In simple terms, the Inuit of northern Labrador claim to have aboriginal title to the land and sea-ice to the delineated territory because they and their ancestors were using and occupying, and continue to use and occupy, that territory according to a customary system of tenure before the arrival of Europeans and the assertion of the Canadian sovereignty over North America.

to assert, on the basis of the supporting studies, that this use and occupation qualifies in law as a legal right. This means that any unauthorised interference with these rights can be attacked in appropriate legal proceedings in the Canadian Courts at the suit of the Inuit people.

While there are, of course, many difficult conceptual problems involved in the above proposition, in legal terms an aboriginal title exists if on the evidence the claimants are able to show that they have a customary system of tenure in land (or the sea-ice or seabed) which is either known to lawyers or discoverable by them by violence.

The "lex loci" or customary "common law" of the aboriginal inhabitants survives, as a matter of law, the assertion of a territorial sovereignty by the Crown. Due to the course of the legal and constitutional history of the territory over which we claim to have aboriginal rights, those rights can be asserted only with the concurrence of the Parliament of Canada.

There has been a great deal of confusion and misunderstanding as to what is an aboriginal right. In law, an aboriginal right is any right which is conferred by any claim under the customary law of the aboriginal inhabitants. Among the categories of rights thus claimed, the one on the Terra Nullius basis most closely approximates the concept of traditional hunting and trapping and fishing which the Inuit know best. The only requirement of a valid title comes from

Since the lex loci is the key concept in the law relating to aboriginal rights, it follows that they are not necessarily limited to land. And so customary marriages and adoptions, for example, qualify as "aboriginal rights". Thus a child of a customary marriage is to be held legitimate under Canadian law.

It is on this basis that we claim aboriginal rights over the sea and air-space. And so it follows that all of those rights and privileges enjoyed by the Inuit under their own customary system of land use and occupancy are legal rights capable of being upheld by the Courts. By operation of law these rights are incorporated into the common law of Newfoundland and Canada, and give us special rights.

Any notion that we are asking for special rights or privileges over and above those accorded to other Canadians must be got rid of immediately. We have these rights under the common law.

A land claims settlement will merely protect these rights from further erosion in the day-to-day course of events.

It is this basic concept of aboriginal rights, and the content of those rights, which sets us apart in law from the rest of the country, giving legal validity to, and confidence in, our claims.

By definition, only aboriginal people can claim aboriginal rights.

The Land Use and Occupancy Study demonstrates what to us is obvious -- that Inuit land use and occupancy passes any test which a Canadian Court would dare to set to determine the existence, if any, of an aboriginal title to the territory involved.

We assert that these aboriginal rights have not been validly abrogated, and that they survive to the present day.

We take note of the terms of the August 8 policy statement already mentioned, and understand it to mean that the Canadian Government's commitment to negotiate a land claims settlement with the native people was, strictly speaking, "according to 'aboriginal', 'original' or 'Inuit' title."

It follows from the axiom that only people of aboriginal ancestry can claim aboriginal rights that the traditional legal rights of the native settlers must be established by appeal to a different sort of legal precepts.

At present, there is no legal definition of the status of an aboriginal person. To the extent that some of the members do not qualify in strict law, the supporting studies nevertheless demonstrate a set of facts of which the native peoples can claim to have customary legal rights over certain areas of the land claimed, subject to the rights of the Inuit.

These rights all flow from the two different theoretical perspectives and nothing in either conflicts with the other because of the inherent compatibility of both in itself. Moreover, if either

were, and the land claims of the native settlers denied, then this would be beside the point because on either basis the people represented by this Association could claim all of the territory anyhow.

We have no fear in advancing a claim on behalf of the native settlers of northern Labrador because it is the policy of this Association that native settlers be included in any land claims settlement and participate in its benefits and obligations. We believe this is the only morally tenable position to adopt. And we believe this because we are Inuit.

We also have no fear because we are convinced that including the native settlers is the only option open to the various governments, believing with them that all of these people have a right to participate.

In making clear our position on this issue, however, we reserve the right to characterise the claims of the native settlers as aboriginal rights. On the current state of the law the question is certainly arguable, and in characterising the rights of the settlers under the blanket formula customary rights, we do not mean to foreclose this option.

What is important in the long run is not that which divides us but that which unites us: a shared sense of fear and confusion over the future of our way of life, and a commitment to acquire control over our own lives.

We assert that the customary legal rights of the settlers have not been validly abrogated and survive to the present day.

While we deny that our aboriginal and customary rights have been validly abrogated, we do recognise that there are other parties who will doubtless assert competing rights over the territory claimed.

Among these will be the claims of the Moravian Mission under various ancient licences to occupy and other grants. Doubtless there will also be claims by other parties, perhaps even the Government of Newfoundland.

These claims will be conceded or denied or negotiated at the appropriate time.

The territory delineated is also potentially subject to claims of a rather different character. These will be by other aboriginal users and occupiers of this land, such as the Naskapi and Montagnais Indians from North West River, Davis Inlet and elsewhere.

We take note of these claims, and this statement is not to be construed as a denial of them.

Our claim, therefore, is to aboriginal and customary legal rights to all of the territory more particularly described on the annexed map. We call on the Government of Canada to recognise and accept its lawful obligations and to enter into negotiations at the proper time with the Labrador Inuit Association for a settlement of their land claims.

We refuse to be strangers in our own land.

Date Due

MAR 27 '86

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A Statement of a claim to
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